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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,961	08/03/2001	Edwin Lyda	42159-023	5875

7590 05/20/2005  
McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
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TRAN, HAI V

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/920,961

Applicant(s)

LYDA, EDWIN

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 13-17, and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferris et al. (WO 99/04568).

Claim 1, Ferris discloses an electronic response device (Fig. 3, el. 417; Fig. 4-6) other than a personal computer, the response device configured for interactively responding to programming over a standard communication system (see Fig. 3), the response device comprising:

a user input mechanism (Fig. 5, el. 622);

means for controlling (input controller 611) a user's input of a program identifier code for a program (PDUID) and a user identifier code (HUUID) (page 13, 3<sup>rd</sup> paragraph);

a central processing unit (microprocessor 607) for processing the program identifier code, the user identifier code, and response data a user has entered into the user input mechanism;

a power source (inherently must have); and

a transmitter connected to the CPU (603 and 614).

Claim 2, Ferris further discloses wherein the input mechanism is selected from the group consisting of a keypad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph);

the transmitter comprises a two-way paging device (Fig. 5, el. 603; page 18; 2<sup>nd</sup> paragraph); and the communication system comprises a two-way paging system (page 12; 3<sup>rd</sup> paragraph).

Claim 3, Ferris further discloses wherein the input mechanism is selected from the group consisting of a key pad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph);

Claim 13, method claim is analyzed with respect to apparatus claim 1, Ferris further discloses collecting and processing the data at a central location (page 15, 1<sup>st</sup> paragraph; page 24, 1<sup>st</sup>-3<sup>rd</sup> paragraph).

Claim 14, Ferris further discloses sending the processed data to a presenter of the program for viewing (page 15, 1<sup>st</sup> paragraph and page 24, 3<sup>rd</sup> paragraph).

Claim 15, Ferris further discloses having the presenter of the program respond to the audience center (interactive story line; page 9, 4<sup>th</sup> paragraph).

Claim 16, Ferris further discloses wherein the program is selected from the group consisting of radio broadcast, a television broadcast... (page 10, 8<sup>th</sup> paragraph).

Claim 17 is analyzed with respect to claim 2.

Claim 20, Ferris discloses a system for receiving and processing responses to programming comprising;

Providing a program identifier (PDUID) for a program being presented (page 13, 3<sup>rd</sup> paragraph);

Providing a user input device other than a personal computer (Fig. 3, el. 417; Fig. 4-6);

Having an audience member input response data into the user input device (Fig. 5, el. 622; page 15, 1<sup>st</sup> and 5<sup>th</sup> paragraph);

Transmitting the program identifier and the response data associated with a user identifier over a standard communication system (page 12; 3<sup>rd</sup> paragraph).;

Collecting and processing the program identifier and the response data (page 15, 1<sup>st</sup> paragraph; page 24, 1<sup>st</sup>-3<sup>rd</sup> paragraph);

Routing the response data to a program presenter (interactive story line; page 9, 4<sup>th</sup> paragraph).

Claim 21, Ferris further discloses having the presenter respond to the audience member (interactive story line; page 9, 4<sup>th</sup> paragraph).

Claim 22, Ferris further discloses wherein the program is selected from the group consisting of radio broadcast, a television broadcast... (page 10, 8<sup>th</sup> paragraph).

Claim 23 is analyzed with respect to claim 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 4 are rejected under 35 U.S.C. 103(a) as being obvious over Ferris et al. (WO 99/04568).

Claim 4, Ferris further discloses wherein the input mechanism is selected from the group consisting of a key pad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph);

Ferris does not disclose the transmitter is configured to call telephone numbers each of the telephones numbers having been associated with a response to the program; and the communication system comprises a plain old telephone system.

Official Notice is taken that having a remote control with integrated modem with associated call number for communication purpose using of a plain old telephone system is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated modem built in the handheld device so to provide to user an alternative way to communicate with the service provider beside of the two-way paging network.

Claims 5 and 6 Ferris further disclose wherein the input mechanism is selected from the group consisting of a key pad and voice recognition apparatus (Fig. 5, el. 622; page 15, 5<sup>th</sup> paragraph);

Ferris does not disclose the transmitter comprises a wireless internet protocol device, and the communication system comprises an Internet protocol systems; wherein the internet protocol system further communicate with a telecommunication system.

Official Notice is taken that having a remote control with integrated wireless modem for communication purpose through Internet in which the Internet network is in communication with a telecommunication network is notoriously well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris to have an integrated wireless modem built in the handheld device so to provide to user an alternative way to communicate with the service provider through Internet network beside of the two-way paging network.

Claim 18 is analyzed with respect to claim 4.

Claim 24 is analyzed with respect to claim 4.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris et al. (WO 99/04568) in view of Yoshinobu et al. (US 5721584).

Claim 7, Ferris does not clearly disclose an indicator for indicating the connection status of the electronic response device to a communication system; however, Ferris shows activities (alert with flashing led 10) during connectivity (page 22, 6<sup>th</sup> paragraph).

Yoshinobu discloses an indicator for indicating the connection status of the electronic response device to a communication system (Col. 12, lines 22-30 and col. 18, lines 1-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris with Yoshinobu so to provide



to user a way to detect the condition (Connect or Not connect) of the communication process between two communication devices.

4. Claims 25 is rejected under 35 U.S.C. 103(a) as unpatentable over Ferris et al. in view of Lewis et al (US 5303042).

Claim 25, Ferris does not clearly disclose the audience member log into a remote computer system before inputting data into the user input device; However, the users log on the keypad device (page 25, 3<sup>rd</sup> and 4<sup>th</sup> paragraph).

Lewis discloses the audience member log into a remote computer system before inputting data into the user input device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ferris with Lewis so that the remote computer able to track all viewer currently log on the system (Col. 8, lines 25-45).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 2611

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ht:ht  
05/13/2005

  
HAI TRAN  
PRIMARY EXAMINER